

§ 232.406T

17 CFR Ch. II (4–1–14 Edition)

which an Interactive Data File must be submitted as an exhibit and be posted to the issuer's corporate Web site, if any, and the circumstances under which it is permitted to be submitted as an exhibit, with respect to Form 40-F and Form 6-K, respectively. Item 601(b)(101) of Regulation S-K, paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of Form F-10, paragraph 101 of the Instructions as to Exhibits of Form 20-F, paragraph B.(15) of the General Instructions to Form 40-F and paragraph C.(6) of the General Instructions to Form 6-K all prohibit submission of an Interactive Data File by an issuer that prepares its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 *et seq.*) For an issuer that is an open-end management investment company registered under the Investment Company Act of 1940, General Instruction C.3.(g) of Form N-1A specifies the circumstances under which an Interactive Data File must be submitted as an exhibit and be posted to the company's Web site, if any.

[74 FR 6814, Feb. 10, 2009; 74 FR 15667, Apr. 7, 2009, as amended at 74 FR 7775, Feb. 19, 2009; 74 FR 21256, May 7, 2009; 76 FR 46617, Aug. 3, 2011]

§ 232.406T Temporary rule related to Interactive Data Files.

(a) *Scope.* Section 232.406T addresses the liability for the Interactive Data File. An Interactive Data File is subject to the same liability provisions as the Related Official Filing except as provided in paragraphs (b) and (c) of this section.

(b) *In general.* The Interactive Data File, regardless of whether it is an exhibit to a document incorporated by reference into filings:

(1) Is subject to the anti-fraud provisions of section 17(a)(1) of the Securities Act, section 10(b) of the Exchange Act, § 240.10b-5 of this chapter, and section 206(1) of the Investment Advisers Act except as provided in paragraph (c) of this section;

(2) Is deemed not filed or part of a registration statement or prospectus for purposes of sections 11 or 12 of the Securities Act, is deemed not filed for purposes of section 18 of the Exchange Act or section 34(b) of the Investment Company Act, and otherwise is not subject to liability under these sections; and

(3) Is deemed filed for purposes of § 232.103.

(c) *Good faith attempts and prompt correction.* Subject to paragraph (b) of this section, the Interactive Data File shall be subject to liability for a failure to comply with § 232.405, but shall be deemed to have complied with § 232.405 and would not be subject to liability under the anti-fraud provisions set forth in paragraph (b)(1) of this section or under any other liability provision if the electronic filer:

(1) Makes a good faith attempt to comply with § 232.405; and

(2) After the electronic filer becomes aware that the Interactive Data File fails to comply with § 232.405, promptly amends the Interactive Data File to comply with § 232.405.

(d) *Temporary section.* Section 232.406T is a temporary section that applies to an Interactive Data File submitted to the Commission less than 24 months after the electronic filer first was required to submit an Interactive Data File to the Commission pursuant to § 232.405, not taking into account any grace period, but no later than October 31, 2014. After these dates, an Interactive Data File is subject to the same liability provisions as the Related Official Filing. This temporary section will expire on October 31, 2014.

EFFECTIVE DATE NOTE: At 74 FR 6814, Feb. 10, 2009, § 232.406T was added, effective Apr. 13, 2009 to Oct. 31, 2014.

EDGAR FUNCTIONS

§ 232.501 Modular submissions and segmented filings.

An electronic filer may use the following procedures to submit information to the EDGAR system for subsequent inclusion in an electronic filing:

(a) *Modular submissions.* (1) One or more electronic format documents may be submitted for storage in the non-public EDGAR data storage area as a modular submission for subsequent inclusion in one or more electronic submissions.

(2) An electronic filer shall be permitted a maximum of ten modular submissions in the non-public EDGAR data storage area at any time, not to exceed a total of one megabyte of digital information. If an electronic filer attempts to submit a modular filing